

LOWER PAXTON TOWNSHIP
BOARD OF SUPERVISORS

Minutes of Board Meeting held February 21, 2006

A business meeting of the Board of Supervisors of Lower Paxton Township was called to order at 7:40 p.m. by Chairman William B. Hawk on the above date in the Lower Paxton Township Municipal Center, 425 Prince Street, Harrisburg, Pennsylvania.

Supervisors present in addition to Mr. Hawk were: William C. Seeds, Sr., William L. Hornung, and Gary A. Crissman.

Also in attendance were George Wolfe, Township Manager; Steve Stine, Township Solicitor; Dianne Moran, Planning and Zoning Officer; Brian Evans, Stephen Yingst, and Stephen Knight, Evans Engineering, Inc.; Harold Kushner, Omni Reality Group; Arthur and Loretta Frank; Deborah Shore; Brad Henken; and Jeff Staub, Dauphin Engineering.

Pledge of Allegiance

Mr. Blain led the recitation of the Pledge of Allegiance.

Approval of Minutes of December 20, 2005 and January 3, 2006 (two sets)

Mr. Crissman made motion to approve the minutes of the December 20, 2005 administrative workshop meeting, the January 3, 2006 reorganization meeting, and the January 3, 2006 business meeting. Mr. Blain seconded the motion, and a unanimous vote followed.

Public Comment

No public comment was presented.

Chairman & Board Members' Comments

Mr. Crissman noted that it was mentioned in The Patriot News today that Mr. Ernest Gingrich, a member of the Planning Commission, was named "engineer of the year".

Mr. Hawk welcomed the members of Boy Scout Troop 302 sponsored by St. Mark's Evangelical Lutheran Church, which is located at Londonderry Road and Arlington Avenue. The following members were in attendance at the meeting to earn their "Citizenship in the Community" Merit Badge: Bo Ritter, Patrick Doyle, Nathan Wynman, James Stanton, Kieran Benton, James Stanton, Matthew Bressler, Avery Haywood, and Scoutmaster, Seth Gribian.

Manager's Report

Mr. Wolfe noted that an article on the front page of the Township Newsletter explained the visioning process the Board of Supervisors completed last year through which the Board defined its mission, established a comprehensive vision for the community, and also developed a slogan for the governmental operations. He noted that the Board of Supervisors' Vision Statement for Lower Paxton Township is: "The Township will be an open, vibrant and progressive municipality, working within the bounds of available resources providing the best quality of life for a growing community to be a recognized leader in Central Pennsylvania."

Mr. Wolfe explained the Township's mission is: "Lower Paxton Township will work to meet and exceed the needs of a growing community in a cost effective manner." He noted that the Board of Supervisors desires to provide, "Good Government for a Great Community", which is the Township's slogan. He noted that the slogan would be included on all Township documents, newsletters, website and other various documents and publications.

OLD BUSINESS

Resolution 2006-07; amending the fee schedule to be charged for the review of Land development and subdivision plans by the Township Engineer

Mr. Wolfe explained that the Township Engineer Committee discussed the need to amend the fee schedule during the selection process for the Township Engineer. He noted that the Board of Supervisors chose the firm of Herbert, Rowland, and Grubic, Inc (HRG) based upon

the recommendation from the Township Engineer Committee. Mr. Wolfe explained that under Commonwealth law, the Township is permitted to charge developers, whose plans require a plan review, the same fee that the Township incurs to have the plans reviewed by the Township Engineer. Mr. Wolfe explained that HRG's fee schedule is attached to Resolution 2006-07, and the Township would pass these fees onto developers at the listed rate. He noted that this resolution is complete for action this evening.

Mr. Crissman made a motion to adopt Resolution 2006-07, amending the fee schedule for engineering services in the review of subdivision and land development plans and improvements by the Township Engineer, HRG, Inc. Mr. Blain seconded the motion, and a voice vote followed. The motion carried unanimously.

Ordinance 2006-03; Amending Chapter 162 of the Codified Ordinances,
entitled Shade Tree Commission.

Mr. Wolfe explained that Ordinance 2006-03 was approved at the previous meeting, however, it was advertised for a public hearing for this date, therefore, the public hearing must be conducted during this meeting. He noted that there were no changes in the policy of the ordinance for the Shade Tree Commission, but it was rewritten to be more up to date. He noted that the Dr. Lacasse, and the members of the Shade Tree Commission highly recommend the adoption of this ordinance.

Mr. Stine noted that this was the time and date to conduct a public hearing for Ordinance 2006-07, which would amend Chapter 162 of the Codified Ordinances, entitled Shade Tree Commission. Seeing no response from the audience, Mr. Stine closed the public hearing for Ordinance 2006-07. He noted that the Board may take action if it so desires at this time.

Mr. Crissman moved to approve Ordinance 2006-07, amending Chapter 162 of the Codified Ordinances, entitle Shade Tree Commission. Mr. Blain seconded the motion, and a voice vote followed. The motion was carried unanimously.

NEW BUSINESS

Memorandum of Understanding between local municipalities and the Paxton Creek Watershed Association

Mr. Buskirk explained that he wished to present an update to the Board of Supervisors regarding the Targeted Watershed Grant through the Environmental Protection Agency, (EPA). He noted that the Township gave support for the grant in the amount of \$20,000 of in-kind resources for the grant. He noted that the Paxton Creek Watershed Association was able to receive assistance in the amount of \$750,000 from different sources that amounts to half of the grant amount, which is \$1.5 million. He noted that the project has passed the first cut for funding, and the next cut would be the final cut with the awarding of the grant. He noted that the grant of \$1.5 million is awarded based upon a 50-50 match. He noted that a good portion of the funds would be spent in Lower Paxton Township. He noted that his organization has budgeted \$105,000 in cash, which does not include the in-kind matches.

Mr. Buskirk noted that the Paxton Creek Watershed Plan is roughly 75 pages in length, but it is designed to be people-friendly. He noted that the Township would be provided with a copy of the final plan with appendixes. He noted that he would like to coordinate the Memorandum of Understanding (MOU) with the four local municipal governments. He stated that he would request the four municipalities to sign a MOU, to work to improve the watershed for the Paxton Creek. He noted that three things would be involved in the process. The first would be a sharing in the early notice system of events that are happening in the watershed, such as developments. The second thing would be that each municipality would be asked to have a staff representative to coordinate the activities, and the third item would be to work together to secure funds through a joint application process. He noted that it would put this project on the Rivers Registry for Pennsylvania and open up more funding opportunities. He noted that in the

future, the funding for these types of assistances would be shifted to other priorities such as Hurricane Katrina or the war in Iraq.

Mr. Buskirk requested the Board members review the MOU, modify it if needed, and to sign the document. He noted that he would ask the other municipalities to sign the same document.

Mr. Hawk explained that Mr. Buskirk stated that the text for the MOU would be the same or very similar to the cooperative amendment. Mr. Buskirk noted that his group inadvertently called the document a cooperative amendment, and realized that there were legal consequences that were not known at the time the document was drafted. It was decided instead, to draft a MOU between the different entities. Mr. Crissman suggested that if the Township would make changes, the other municipalities would have to agree to the changes. Mr. Crissman questioned who has signed the MOU. Mr. Buskirk answered that Lower Paxton Township would be the first to sign the MOU since Lower Paxton Township is the headwaters of the tributaries for the Paxton Creek Watershed. Mr. Hawk questioned if Mr. Buskirk anticipated any difficulties with getting signatures from the other municipalities. Mr. Buskirk noted that he could have a problem with the Borough of Penbrook, but he felt that the MOU would be supported. He noted that he would have to get approval with the Susquehanna Parks and Recreation Board before their Commissioners would vote on it. Mr. Seeds commented that the Board members received a copy of the agreement with the Paxton Creek Watershed previously, agreeing to the in-kind contribution. Mr. Seeds suggested to Mr. Buskirk that, possibly, the Boy Scouts could help with the project. Mr. Buskirk noted that Troop 360 from Holy Name of Jesus Church helped with planting a buffer along the Paxton Creek in Linglestown.

Mr. Hawk noted that Mr. Buskirk was asking the Board of Supervisors to sign the MOU for the Paxton Creek Watershed. Mr. Crissman noted that the paperwork stated that it was a cooperative agreement. Mr. Buskirk explained the document would be changed to a MOU in

place of a cooperative agreement. Mr. Crissman questioned who would prepare a revised document. Mr. Buskirk answered that he would. Mr. Crissman noted that the Board would need to review the revised document to determine if they would sign the document. Mr. Hornung suggested that Mr. Stine should review the document prior to having the Board members sign the document. Mr. Hawk noted that the Board members support the concept.

Resolution 06-09; Authorizing the provision of an easement to PPL along Fairfax Drive

Mr. Wolfe explained that the Township has granted an easement, over a portion of the closed municipal landfill, on which Fairfax Drive had been laid out but never constructed or accepted by the Township. He noted that the Township granted an easement for a sanitary sewer line, which serves Lot #6, found on the map in the packet of information. He explained that in order to provide electric service to Lot #6, PPL would need a similar easement or right-of-way to install the public utility for extension to Lot #6, and possibly another lot to be developed in the area. He noted that the easement is on Township property that was previously laid out for Fairfax Drive. Mr. Wolfe noted that Mr. Stine reviewed the easement and found it to be in order.

Mr. Seeds noted that there are two homes in the area. He questioned if the right-of-way was in the middle of the road or in the parkland. Mr. Wolfe answered that it is located where the road was to be built. Mr. Seeds questioned if PPL would run overhead lines. Mr. Wolfe answered that they would. Mr. Seeds questioned if the utility would continue along the parkland. Mr. Wolfe answered that it would stop at the end of Fairfax Drive.

Mr. Crissman moved to approve Resolution 2006-09, authorizing the provision of an easement to PPL along Fairfax Drive. Mr. Blain seconded the motion, and the Supervisors were polled as follows: Mr. Blain – aye; Mr. Crissman – aye; Mr. Hornung – aye; Mr. Seeds, - no; Mr. Hawk – aye.

Final land development plan for Pinnacle Family Medicine Center

Ms. Moran explained that the purpose of the plan is to construct a 13,050 square foot professional medical center and parking on Lot #4 of the 8.58 acre property (formerly Final Subdivision and Land Development Plan for Robert J. Fried and Commerce Bank) north of Linglestown Road, and west of Patton Road. The property is zoned C-1, General Commercial and is 3.18 acres. The site will contain public sewer and public water.

Ms. Moran noted that the applicant has requested the following waivers requests, general conditions, and staff comments: 1) Waiver to permit the plan to be submitted as a final plan; 2) Waiver to allow the placement of sidewalk as proposed in accordance with the Land Development Plan of Robert Fried, Commerce Bank; 3) Waiver of the requirement to provide road widening along Patton Road; 4) Plan approval shall be subject to providing original seals and signatures; 5) Plan approval shall be subject to the payment of engineering review fees; 6) Plan approval shall be subject to the establishment of an improvement guarantee for the proposed site improvements; 7) Plan approval shall be subject to the Dauphin County Conservation District's review of the Erosion and Sedimentation Control Plan; 8) Plan approval shall be subject to Department of Environmental Protection's approval of a sewage facilities planning module; 9) Plan approval shall be subject to the Lower Paxton Township Sewer Department's review and approval of the sanitary sewer design; 10) Plan approval shall be subject to addressing all comments of HRG, Inc.; 11) All signage must meet the requirement of the Lower Paxton Township Zoning Ordinance; and 12) A street/storm sewer construction permit is required for construction of storm water facilities.

Ms. Moran noted that Mr. Bryan Evans and Mr. Stephen Knight from Evans Engineering, Inc. were present to represent the plan.

Mr. Evans noted that he was present to represent Pinnacle Family Medical Center and he introduced Mr. Steve Yingst, a high school co-op student from the Central Dauphin School District. He noted that Mr. Yingst would like to give the summary for the project.

Mr. Yingst explained that Omni Realty Group and Pinnacle Health are proposing a 13,050 square foot medical facility on the fourth and final lot for the Robert J. Fried subdivision. He noted that the lot had been cleared from the other three construction projects, which have already started the building process. He explained that the building is proposed to be a one-story medical center with an underground stormwater detention system, which will be discharging into a tributary of the Paxton Creek to the south of the property. He noted that there would be a swale north and west of the building to catch stormwater from north of the site, which will discharge into a tributary of the Paxton Creek. He explained that there would be two parking areas, one to the east for the patients, and the parking facility to the rear of the property would be for employees. He noted that the sewer module was previously approved as part of the original subdivision of the property in September 2003. He noted that the Dauphin County Conservation District is currently reviewing the Erosion & Sedimentation Plan. Mr. Yingst explained that the Traffic Study was completed by KCI Technologies, and was approved with the original subdivision in March 2004. He noted that a traffic signal would be installed at the intersection of Patton and Linglestown Roads.

Mr. Evans explained that this is the final lot of the previously approved subdivision. He noted that the comments received by the engineers were nominal. He noted that the waiver for sidewalk is problematic in that he would need a waiver for only a portion of the sidewalk, and the second waiver for roadway width does meet the Township ordinance. He noted that after further review, staff found that there is adequate width in front of Lot #4 to meet the Township's ordinance. He noted that when the road is completed with improvements, the road would be 14

feet from centerline from Patton Road to the curb line. He noted that the waiver would not be required.

Mr. Crissman questioned if the developer has started the groundwork for the project. Mr. Evans explained that most of the earthwork for Lots 1, 2, and 3 has been completed, and earthwork was completed on the eastern part of Lot 4 which is part of the approved Erosion & Sedimentation Plan to allow the stream crossing to be installed, and advanced roadway work.

Mr. Crissman questioned Mr. Evans that as this earthwork was completed, if there had been an encroachment into the neighbor's property by removing trees from properties on the northern border. Mr. Evans explained that the contractor that was retained to do the earthwork, in the process of clearing the ground in the eastern side of Lot #4, was requested by Mr. Metcalf to remove a few trees and dig out some shrub brush. In the process, the contractor proceeded to remove additional shrub brush and additional material beyond the property line. He noted that this was brought to the contractor's attention, and this is between the property owner and the contractor. He noted that the removal of the trees and shrub brush was not done at the direction of the landowners or engineer.

Mr. Crissman questioned if there was any pending litigation. Mr. Evans explained that Mr. Frank has made contact through his attorney with Triax, the contractor, regarding this issue. He noted that he is not aware of any additional litigation in this matter.

Mr. Crissman questioned what was designed in the plan for the buffer zone for the properties north of the development. Mr. Evans noted that, along the northern property for Lot #4, there is a 55-foot to 65-foot landscape buffer berm that would be constructed for the Pinnacle Family Medical Center. He noted that the clearing along Mr. Franks' property has a clearing of 200 feet along the edge, and a little clearing along the edge of the Shore's property. He noted that the contractor, Triax, cleared this as an oversight. He stated that the contractor offered to replant

the area at his expense. He noted that a large landscaping buffer would be installed in this area, which would include a 3-foot to 4-foot earthen berm, evergreens and other trees.

Mr. Crissman questioned if this landscape buffer was discussed with the property owners who have land contiguous with the property. Mr. Evans noted that it was mentioned to the property owners when he was present at a meeting with Mr. Frank. Mr. Crissman questioned if the developer met with all the property owners. Mr. Evans stated that the developer of Lot #4 did not, because this took place prior to the developer's ownership of the property. He noted that Omni Developers had no involvement in this process, because Mr. Fried currently owns the land, at this time. He noted that the contractor was doing the work for Mr. Fried on Lots 1, 2, and 3, and Triax has acknowledged their encroachment into the other properties. He noted that Mr. Kushner had nothing to do with this in regards to the development of his property, Lot 4. He noted that he has not approached the property owners since he is not party to any of the concerns referred to.

Mr. Crissman noted that the Township experienced a similar problem, further west along Linglestown Road where the developer stripped the land, and as a result, he noted that if there were no discussion with the property owners, he would not support the plan. Mr. Evans noted that there is a detailed landscaping plan for seeding, grading, plantings, etc. Mr. Crissman noted that, in the previous situation, the Board members had a room full of hostile neighbors because the developer snubbed them and created a fiasco. Mr. Kushner noted that he would have no objections to meeting with the property owners along the property line. Mr. Crissman noted that he is trying to avert another repeat of the same problem. Mr. Evans noted that he could arrange to facilitate a meeting between Mr. Kushner and the adjoining property owners.

Mr. Michael Kushner, 2365 Forest Hills Drive, Harrisburg, explained that he is the owner of the Omni Development Group and is the developer of the parcel for the Pinnacle Family Center. He stated that he would have no problem meeting with the neighbors. He stated that he

felt the neighbors would be pleased with the proposed landscaping plan. Mr. Hawk questioned if this would include the property owners of Lots, 33, 34, 35, 36 and 37. Mr. Kushner agreed that he would meet with all the property owners, and he reiterated that the work completed is not work that he was involved with. He noted that he has not signed a contract with any excavators or with anyone other than the engineering firm. Mr. Crissman requested something in writing to state that the meeting with the neighbors was held. Mr. Kushner noted that he would be willing to comply with this.

Mr. Hawk noted that Mr. and Mrs. Frank, Deborah Shore and Brad Henken were present at this time. Mr. Evans noted that he would plan a meeting with the neighbors this evening, and invite Township staff to attend as well.

Mr. Seeds noted that the contract for the excavation work was between Mr. Fried and Tri-ax, prior to Omni being involved in the development. Mr. Seeds noted that Pinnacle Health would be the neighbors to the residents and would want to be good neighbors. Mr. Evans noted that there were three separate contracts between Triax and Commerce Bank, Dunkin Donuts, and Patton Place. He noted that Triax did work beyond the contracted work.

Mr. Crissman questioned if Mr. Evans could report back to the Board members, prior to the April Board meeting. Mr. Evans noted that as long as he can schedule a meeting with the property owners, he did not see that as a problem. Mr. Crissman suggested that the plan should be withdrawn from the agenda until this issue has been resolved. Mr. Evans questioned if the plan could be rescheduled for a March Board meeting. Mr. Hornung noted that he knows Mr. Evans personally, and if Mr. Evans gives his word that he would do something; he would follow through with it. He noted that he would have no problem approving the plan at this time. Mr. Crissman stated that he could not. Mr. Hawk noted that the deadline for the plan is April 10th, and if the plan was ready prior to that, it could be scheduled sooner. Mr. Hornung noted that this

is unfair to expect Mr. Evans to do this, as he is not required by law to meet with the neighbors since he was not responsible for the problem. He noted that it is not fair to delay the project.

Mr. Arthur Frank, 4447 Venus Avenue, noted that he would like to thank the Board members for their concern and stated that this was the first satisfaction that he has received from anyone in this situation. He explained the excavator came into his property by 15 feet, and cleaned out trees and shrubs. He noted that he has lived there for 28 years and did not want those items removed. He noted that Mr. Fried blamed the work on the excavator, and the excavator blamed Mr. Fried, and Mr. Evans stated that the removed items did not belong to Mr. Frank, but rather to Mr. Fried. Mr. Frank noted that he had pictures of the site prior to the removal of the trees, and an arbortor estimated that it would cost over \$80,00 to replace the trees. He noted that the excavator infringed on the property lines the entire length of the property. He noted that the survey stakes confirmed the property lines. He stated that he does not know the motive for the tree removal and thinks that the developer just wanted to remove the trees. He noted that this occurred in July. Mr. Blain questioned if the excavator committed to replacing the trees and shrubbery. Mr. Frank stated that Mr. Evans, Mr. Fried, the excavator and Mrs. Frank met, and it was discussed that the excavator would grade the property, seed the land, and replace the trees with sumac trees from the woods. Mr. Evans noted that that is not what was said. Mr. Frank stated that you could not depend on anything Mr. Evans stated. Mr. Blain questioned if there was any written agreement made with the excavator to replace the trees. Mr. Frank answered no.

Ms. Deborah Shore, 4443 Venus Avenue, stated that she has been in contact with an insurance carrier for Triax, and was told that Triax had accepted liability and were aware that they were negligent in the removal of the trees and the trespassing on the various properties, however, it was established today that there is no insurance coverage for this. Therefore, the 50-foot and 25 foot trees that removed from the property line will not be replaced. She noted that now, as a result of the earth moving, she has an extensive water problem in her backyard. She

noted that there are huge mounds of dirt left at the base of both properties, and the water does not drain from the rear of her yard. She noted that this had never occurred in her yard before, and the water was backing up into her basement.

Mr. Hornung questioned if when the berm was installed if it would make the back yard situation worse. Mr. Evans noted that the first 25 feet would be a drainage swale onto Pinnacle property, taking the water from Lots #33-37 and conveying it down and around from the property. He noted that this would correct the water problem. Mr. Evans noted that there is a difference of opinion as to what was said by the parties at various times. Mr. Evans noted that the contractor initially agreed to grade, seed and replant some pine trees, and Mr. Coyne from Triax and Mr. Frank did not see eye-to-eye, and at some point in time, there was a problem as to how both parties viewed the issue. He noted that he was aware that Mr. Frank contacted an attorney, and he had not heard anything more since the meeting he had with Mrs. Frank in the field. He noted that he was under the impression that things had quieted down. He noted that the piles of dirt are to be used to construct the berm, and they could be removed if they are too close to the property. Mr. Evans noted that he had the land surveyed in the days following the removal of the trees, to determine exactly what was disturbed on the Frank's and Shore's property. He noted that this has been documented.

Mr. Hornung questioned if Mr. Frank received an estimate to replace the trees. Mr. Frank answered that he received three estimates, to restore the trees, shrubs, removal of the tree stumps and he was told that it would cost roughly \$80,000. Mr. Frank noted that there were twenty 25-foot trees removed. He noted that his attorney told him that he has a right to have the property restored to the original condition. He noted that he spends a lot of time on the road with his business, and someone must take care of the trees.

Mr. Seeds noted that Mr. Frank stated that this was the first time Mr. Frank received any attention to his dilemma, but he noted that this was the first that he was notified of the problem,

and other than, Mr. Crissman, no one was aware of the problem. Mr. Frank noted that he appreciated the Board's assistance.

Mr. Seeds noted that the road width would be 14-foot. Mr. Evans noted that the road would be 14-feet from centerline on Pinnacle's side of the road, which is part of the prior subdivision plan. He noted that the original plan called for road widening to the rear of Lot #3, but, at the direction of Township Staff and Engineer, he was asked to include the traffic for Lot #4, and the improvements to Lot 4, to include the end of the property. He noted that the Board members requested that it be installed at that location. Mr. Seeds questioned if the road was 14-foot since the work was not completed yet. Mr. Seeds noted that the road only measured 10-foot from the centerline to curb, and to the storm basin it only measured 12-foot. He noted that a sidewalk is proposed also, and he questioned how Mr. Evans would be able to gain the 14 feet needed. Mr. Evans noted that when the work is completed the travel lane will be 14-feet. He noted that the inlet is at 12 feet to the front side, and it would be included in the road surface with a 12-foot lane. He noted that this would provide for a two-foot water table. Mr. Seeds noted that it is the wrong type of storm basin. Mr. Evans explained that a hood was placed upon it until the completion of the road. He noted that if it was installed now it would be higher than the road and it would be a safety hazard. He noted that this work would be completed in ten days, but could not be paved until April or May according to PENNDOT standards. Mr. Evans noted that there would be a 14-foot lane, curbing, and grass for most of the sidewalk except for a small portion where the sidewalk would be placed along the right-of-way. He noted that a waiver would be needed for a small section of sidewalk due to a storm drain, and a slope where the Township requested that a railing be installed to preserve the wetlands. He noted that this would result in a two-foot section of non-conforming sidewalk being two feet closer to the road.

Mr. Blain questioned Ms. Moran if when the traffic study was completed in March 2004, when the plan was previously approved, was it known what would be developed on the property,

and how it would impact the traffic study. He questioned if HRG reviewed the traffic study to compare it to what was actually planned for the property. Mr. Evans answered that the traffic study completed two years ago included an 18,000 square foot office building as compared to a 13,000 square foot building. As a follow up to the plan, he had a trip distribution narrative performed, compared it to the original study, and it was included with the submission of the plan. He noted that this was performed by KCI in October 17, 2005, and it met the intent of the original study. Mr. Blain questioned what the results of the study were. Mr. Evans noted that this was done by peak hours, and the general office for the original design showed 48 trips for the AM peak, and 99 trips for the PM peak. He noted that the study completed for the medical center was 56 trips for the AM peak and 65 trips for the PM peak for a building larger than is currently planned. Mr. Blain noted that he wanted to see that the trips would be down from the original study. Mr. Evans noted that the AM peaks increased by 3 or 4, but were lowered significantly for the PM peaks.

Mr. Blain questioned Mr. Stine if the general contractor cleared out the property would he be held liable, or would the landowner be liable. Mr. Stine noted that he could not comment because he did not know the facts for the case. He noted that what happened on the people's property is not within the Townships' purview. He noted that the Board is tasked to review the plan to see if it complies with the ordinances. Mr. Blain noted that this is a private land matter and the general contractor cleared land wrongfully and questioned if the issue has ramifications on the approval of the plan tonight. He suggested if the plan was delayed, the litigation may takes years to be resolved. Mr. Stine noted that what happened with the contractor had nothing to do with the land development plan that is before the Board. He noted that the denial could only be granted if the land development plan did not comply with the ordinances, not for a wrongful trespass situation. Mr. Stine noted that it is not the role of the Board to decide on the land-clearing dilemma, as there are private remedies for that. Mr. Hawk noted that the Board could

postpone the plan to allow the parties to resolve their issues. Mr. Stine noted that the Board members have until April 10th to take action on the plan. Mr. Blain noted that he would not want to mislead the citizens to think that by the Board's tabling the plan that this would serve as a remedy to solve their legal disputes.

Mr. Hawk noted that that was a point well taken. Mr. Crissman noted that since the developer agreed to meet with the homeowners he sees no reason to table the plan and take action. Mr. Evans noted that he feels that he worked with the property owners, but he noted that he would not be able to resolve the differences between the property owners and the contractor. Mr. Crissman agreed to this. Mr. Evans noted that he did not see why the plan could not move forward tonight.

Mr. Brad Henken, 4435 Venus Avenue noted that he did not want to see more land cleared illegally, and would like to view the plans before the developer moves forward. Mr. Evans requested Mr. Hankin to identify his property on the plan.

Mr. Kushner noted that he had nothing to do with the controversy and he has submitted a plan that meets the requirements for the ordinances. He noted that he has a client that he needs to satisfy and he is on a time schedule. He noted that it is unfair that he is asked to delay the project when he has done all that he was asked to do. Mr. Crissman noted that Mr. Kushner agreed to meet with the property owners, and to wait a little while longer would not make a difference. Mr. Kushner noted that he would be willing to meet with the property owners, but he did not think the plan approval should be delayed.

Mr. Seeds questioned who owned the property. Mr. Kushner answered that Mr. Fried owns the property. Mr. Seeds suggested that the delay might put more pressure on Mr. Fried to work out the problems with the neighbors to the north. He suggested that Mr. Fried would like to conclude the sale of the property as soon as possible. Mr. Kushner noted that the pressure comes on his shoulders since he has a client that needs to be in a building by a certain date. Mr.

Crissman suggested that this would be a good neighborly act to meet and discuss the plan with the neighbors. Mr. Hornung noted that the developer agreed to meet with the property owners, but he questioned if a postponement would put pressure on Mr. Fried to cooperate with the neighbors to fix the problem. He suggested that this was thin ground since it was a legal issue that could not have any bearing on the decision making of the proposal. He noted that the Board does not have any legal right to use this as a reason to postpone the proposal. He suggested that the plan could be rescheduled for the third meeting in March and not wait until April. Mr. Crissman noted that he would be willing to review the plan, as soon as possible, as long as the parties meet to discuss the issues. Mr. Evans noted that the legal issues are between the residents and the contractor. Mr. Blain noted that Mr. Fried owns the property and he retained the contractor to do the work. Mr. Evans noted that the contract was between Triax and Commerce Bank, and Triax and Patton Place, and not Triax and Mr. Fried. He noted that Mr. Fried has sold the properties to the north and does not own those properties. He noted that Mr. Fried does not have a contract with Triax to perform the excavation work.

Mr. Hawk suggested that the Board should take some action on the plan at this time.

Mr. Crissman made a motion to table the action for the final land development plan 2005-05 for Pinnacle Family Medical Center to a time that is mutually agreeable with the developer and the Board of Supervisors. Mr. Seeds seconded the motion.

Mr. Frank noted that the excavation started more than two years ago and they moved dirt from one side of the tract to the other side, and he suggested that another six months would not make much difference.

The Supervisors were polled as follows: Mr. Blain – aye; Mr. Crissman – aye; Mr. Hornung – aye; Mr. Seeds, - aye; Mr. Hawk – aye.

Preliminary/final subdivision and land development plan for N. B. Liebmen Furniture
Showcase One-Story Office Building

Ms. Moran explained that the Township has received a plan for the N. B. Liebman Furniture Store located at 4700 Jonestown Road. The property is located on the northwest corner of the intersection of Jonestown Road and Mayfield Street. The plan consists of three lots. The proposed development plan will combine the three lots into one parcel in order to construct a 6,485 square foot addition to the furniture store, off street parking areas, curb and sidewalk along Jonestown Road. The property is zoned C-1, General Commercial, consists of 1.7398 acres and will be served by public sewer and public water. The impervious coverage will be reduced from the previous calculations and interior landscape coverage will be increased.

On January 19, 2006, the Lower Paxton Township Zoning Hearing Board granted a variance (Docket 1194) to allow three newly created parking spaces to be located within the front landscaping setback.

The applicant has requested the following waivers requests, general conditions, and staff comments: 1) Waiver from the requirement to provide a preliminary plan; 2) Waiver from curb and sidewalk installation along Mayfield Street; 3) Waiver of street widening requirement along the frontage of Orchard Street; 4) Plan approval shall be subject to DEP's approval of a sewage facilities planning module; 5) Plan approval shall be subject to Lower Paxton Township Sewer Department's review and approval of the sanitary sewer design; 6) Plan approval shall be subject to the providing original seals and signatures; 7) Plan approval shall be subject to the payment of engineering review fees; 8) Plan approval shall be subject to the establishment of an automatically renewable improvement guarantee for the proposed site improvements; 9) Plan approval shall be subject to the Dauphin County Conservation District's review of the Erosion and Sedimentation Control Plan; 10) Pursuant to Section 420 of the Act of June 1, 1945, (P.L. 1242 No. 428) known as the state highway law, a highway occupancy permit is required for all

construction within PENNDOT right-of-way, a building permit will not be issued without highway occupancy permit approval; 11) Plan approval shall be subject to addressing all comments of Dawood Associates, Inc. dated February 10, 2006; and 12) A street-storm sewer construction permit is required for construction of stormwater facilities.

Mr. Seeds questioned Ms. Moran if there would be more landscaping and trees planted in the area. He questioned what the amount of impervious areas would be. Ms. Moran answered that it was previously 97% and will be reduced to 88%. He noted that the interior landscaping coverage was increased by 4%. Mr. Seeds noted that along Rt. 22, there has been a marked improvement in grass and tree areas.

Mr. Staub noted that the plan is very straightforward and it occurred because of Mr. Hoffer's sale of the duplex at the corner of Rt. 22 and Mayfield Street.

Mr. Crissman questioned if Mr. Staub agreed with the three waiver requests, eight general conditions, and one staff comment. Mr. Staub answered that he did.

Mr. Crissman made a motion to approve the preliminary/final subdivision plan for N. B. Liebman Furniture Showcase, Plan 2005-24 to include the following waivers requests, general conditions, and staff comments: 1) Waiver from the requirement to provide a preliminary plan; 2) Waiver from curb and sidewalk installation along Mayfield Street; 3) Waiver of street widening requirement along the frontage of Orchard Street; 4) Plan approval shall be subject to DEP's approval of a sewage facilities planning module; 5) Plan approval shall be subject to Lower Paxton Township Sewer Department's review and approval of the sanitary sewer design; 6) Plan approval shall be subject to the providing original seals and signatures; 7) Plan approval shall be subject to the payment of engineering review fees; 8) Plan approval shall be subject to the establishment of an automatically renewable improvement guarantee for the proposed site improvements; 9) Plan approval shall be subject to the Dauphin County Conservation District's review of the Erosion and Sedimentation Control Plan; 10) Pursuant to Section 420 of the Act of

June 1, 1945, (P.L. 1242 No. 428) known as the state highway law, a highway occupancy permit is required for all construction within PENNDOT right-of-way, a building permit will not be issued without highway occupancy permit approval; 11) Plan approval shall be subject to addressing all comments of Dawood Associates, Inc. dated February 10, 2006; and 12) A street-storm sewer construction permit is required for construction of stormwater facilities.

Mr. Blain seconded the motion, and the Supervisors were polled as follows: Mr. Blain – aye; Mr. Crissman – aye; Mr. Hornung – aye; Mr. Seeds, - aye; Mr. Hawk – aye.

Resolution 05-47; Authorizing the acceptance of Chelton Avenue in the
Chelsea Park subdivision plan

Mr. Wolfe noted that this Resolution 2005-47 was tabled at the request of the developer.

Resolution 06-08; Planning module for the Robert Leo Property

Ms. Moran noted that Robert Leo proposed to subdivide 2.93 acres of land into five lots known as Lot 1, Lot 2, Lot 3, Lot 4, and Lot 5. This property will be requesting five EDU's for the proposed development. She noted that the Planning Module is complete and accurate and it would be appropriate for Board members to adopt Resolution 2006-08 at this time if it so desires.

Mr. Blain made a motion to approve Resolution 2006-08, Planning module for the Robert Leo Property. Mr. Crissman seconded the motion, and the Supervisors were polled as follows: Mr. Blain – aye; Mr. Crissman – aye; Mr. Hornung – aye; Mr. Seeds, - no; Mr. Hawk – aye.

IMPROVEMENT GUARANTEES

Hathaway Holding, LLC

Extension and increase in a letter of credit with the First National Bank of Marysville in the amount of \$60,025.68 with an expiration date of March 30, 2007.

Snow and Vespignani

New letter of credit with Vartan National Bank in the amount of \$77,731.50 with an expiration date of February 14, 2007.

Gordon A. & Barbara L. Weinberg

Release of a line of credit with PNC Bank in the amount of \$5,472.50.

Mr. Crissman made a motion to approve the improvement guarantees as presented. Mr. Hawk seconded the motion, and a unanimous vote followed.

Payment of Bills

Mr. Seeds made a motion to pay the bills of Lower Paxton Township and Lower Paxton Township Authority. Mr. Crissman seconded the motion, and a unanimous vote followed.

Announcements

Mr. Wolfe noted that the first meeting of the Lower Paxton Township Authority, which is comprises mainly of the Board of Supervisors would be held on Tuesday, February 28, 2006 at 6:00 p.m.

Mr. Hawk thanked the Boys Scouts from Troop 302 for attending the entire meeting.

Adjournment

There being no further business, Mr. Crissman made a motion to adjourn the meeting. Mr. Blain seconded the motion, and the meeting adjourned at 9:03 p.m.

Respectfully submitted,

Maureen Heberle

Approved by,

Gary A. Crissman
Township Secretary